

TEWKSBURY BOARD OF HEALTH

Minutes

July 17, 2014

Call of Meeting To Order

MOTION - Ms. Kinnon made a motion to call the meeting to order at 7:05 PM. The motion was seconded by Mr. Barry and unanimously voted 5-0.

The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairperson Kathleen Brothers, Vice Chairman Raymond Barry, Phillip French, Charles Roux, Christine Kinnon, Health Director Lou-Ann Clement and Recording Secretary Dawn Cathcart.

Approval of Minutes – June 19, 2014

MOTION - Ms. Kinnon made a motion to approve the Board of Health minutes of June 19, 2014 as presented. The motion was seconded by Mr. French and unanimously voted 5-0.

Old Business

Deliberations for the Appeal of Prohibition, Regulations for Keeping of Animals and 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation, Variance for the Keeping of Animals, Site Assignment – M.G.L. c. 111 § 151 Slaughter House, and Site Assignment – M.G.L c. 111 § 143 Trade of Employment of Noisome attended with Noisome Trade and Injurious Odors (Piggery) Located at 199 Marston Street, Tewksbury, MA, Owner: Dinis Oliveria

Attorney Peter Gollub and Dinis Oliveria appeared for the deliberations.

Ms. Clement stated that she sent the draft decision for the custom slaughter house to Town Counsel and he had several comments and questions.

Mr. Roux stated that for the record, he was unable to attend the last meeting but he has watched the DVD and reviewed all the material so he is up to speed on all actions taken. Ms. Clement stated that she will include this fact in the decision.

MGL c. 111 § 151 Slaughter House

Ms. Clement stated that following questions were posed by Town Counsel regarding the slaughter house:

1. What is the standard for training employees? Is there a certificate issued by some agency? Ms. Clement stated that she asked Animal Inspector Thomas and will be investigating this further with the State.
2. Are there plans of the slaughter house with a restricted area labeled? Is the general public the same as customers? Ms. Clement stated that they could be the same and plans will be submitted.
3. Are there standards to prevent cross contamination? Ms. Clement stated that she has called the State and will investigate this further.
4. Guidance documents were missing. Ms. Clement stated that the applicant will provide all the guidance documents. The Board needs to decide when these documents will be due.

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5. The Pest Management documents were missing. Ms. Clement stated that these will be due shortly after the approval with the Board and come up with a due date.
6. Are the standards for farms issued by the State for pest control? Ms. Clement stated that the Board has chosen to use UMass Amherst Standards for the Best Management Practices (BMP).
7. Fire Department Regulations. Ms. Clement stated that this refers to #13 of the draft. She was talking with the Fire Chief and there are standards for LP gas. The Deputy Fire Chief will be investigating this so we should leave the statement as is because it is very broad.
8. Noise reduction issue. Ms. Clement stated that #14 has been revised to include the Town's noise bylaw.

Ms. Clement stated that he also asked about the other decisions and she responded that she had previously sent them for review.

Mr. Barry stated that the noise was related to traffic during late hours, not the noise of the operation during the day. Ms. Clement replied that was correct. The applicant could alleviate some noise by leveling the driveway with pavement in the future.

Ms. Kinnon asked when the pest management plan should be submitted. Ms. Clement stated that it should be due within sixty days after the final decision. Ms. Clement added that the pest management plan becomes part of the nutrient management plan. Attorney Gollub replied that it could be but not necessarily. Ms. Clement stated that regardless, all plans should be due within sixty days of final decision.

Mr. Barry asked if they are not submitted within sixty days is there any recourse. Ms. Clement stated that the Board could request them to appear before this Board or file with the court.

Mr. French stated that he would agree that the road should be leveled out to make the least amount of noise possible.

Ms. Kinnon stated that anything to make the noise quieter is a good thing.

Mr. Barry stated that the bylaw mentions noise levels and asked if any benchmarks have been taken. Ms. Clement replied that no tests have been done. Mr. Barry stated that we would need to take bench marks for the noise. Ms. Clement replied that we would need to find the equipment to do that first. Ms. Brothers stated that the complaints were for the noise at night. The noise is from Mr. Oliveria's own truck and trailer. This is a gravel driveway so it makes noise. Attorney Gollub stated that we can be reasonable to try to lower the noise but this is a farm and there will be noise. Attorney Gollub questioned if the noise bylaw should be referenced in #15 or just state that they will abide by all rules since the Noise Bylaw does not fall under the Board of Health. Ms. Clement stated that it is a general bylaw but the enforcement falls under Community Development, which the Board of Health is a part of and we are a designee. Ms. Kinnon asked if we include the noise bylaw in #15, could it be called out. Ms. Clement stated that she does not recommend this and suggested putting the Board of Health standards on noise.

Ms. Clement stated that she wants to clarify a conversation she had with Ms. Kinnon regarding the definition of slaughter house. "Any animal" could include a dog. She suggested that it says, "... offers services for people who want their privately owned livestock or poultry slaughtered and processed for

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their own personnel use.” and remove “any animal”. Mr. Barry stated that he did some research and there is some standard language. Ms. Kinnon stated that we could not find a federal definition for a custom slaughter house. Our concern was the “any animal” could include a dog, cat, etc. Mr. Oliveria handles livestock. Mr. Barry asked if all animals to be slaughtered are purchased on site. Attorney Gollub replied not necessarily, someone could buy a pig from another farm and bring it to this farm to be slaughtered.

Ms. Brothers asked if someone could come in with a deer that was hunted to be slaughtered. Mr. Oliveria replied no.

Ms. Clement stated that to continue with Town Counsel’s comments:

9. The arrows were changed to numbers within the decision.
10. There was another question about cross contamination. This was address by having the restricted area.
11. The continuous agreement with a licensed rendering service will depend on the volume in the slaughter house and the blood issue will be addressed by the DPW.

MOTION - Ms. Kinnon made a motion accept the amendments to the slaughter house draft decision. The amendments are as follows:

1. The definition of the custom slaughter house will be changed from “any animals” to “privately owned livestock or poultry”.
2. The Town of Tewksbury Noise Bylaw will be added as a reference.
3. The applicant agrees to work to reduce the noise by leveling the gravel driveway.

The motion was seconded by Mr. Barry and unanimously voted 5-0.

MOTION - Ms. Kinnon made a motion that all guidance control documents including the pest control documents and plans are required to be submitted within sixty (60) days of the final decision. The motion was seconded by Mr. Barry and unanimously voted 5-0.

M.G.L c. 111 § 143 Trade of Employment of Noisome attended with Noisome Trade and Injurious Odors (Piggery)

Mr. Barry stated that the finding of facts is very similar as to the other decisions. Mr. Barry read the decision and made comments and corrections. In #4, “in 1977” should be added to keep a chronological order of events. In #5, “in 1977” should be added to indicate which public hearing. Mr. Barry stated that #6 should be deleted because the numbers in the past cannot be verified. In #7, cross out “to be” and change “implemented” to “implement”. In #13, it should be reworded to read “The swine manure pile has been relocated to the other side of the property. See exhibit 7 from the June 17, 2014 meeting documents. The current location of the new combined swine and livestock pile is in compliance with the minimum setbacks as defined by the Tewksbury Board of Health Piggery regulations, Section 8.” Ms. Clement stated that the date of the last meeting was June 19, 2014 not June 17, 2014 so that would be corrected.

Ms. Brothers asked if the swine manure is now 200’ from the wetlands. Ms. Clement replied yes, that is why the piles were moved.

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Ms. Clement stated that #9 should reference the Site Assignment as defined in her order letter.

Mr. Barry asked if in #9 we should add the language from the previous decision stating that all guidance documents shall be submitted within sixty days of approval. Ms. Clement replied yes.

MOTION - Ms. Kinnon made a motion to include all the changes made tonight for the Piggery decision with the addition of up to fifty (50) pigs. The motion was seconded by Mr. Roux and unanimously voted 5-0.

MOTION - Mr. Barry made a motion to approve the Piggery decision with all comments made tonight including up to fifty (50) pigs. The motion was seconded by Mr. Roux and unanimously voted 5-0.

M.G.L. c. 111 § 151 Site Assignment

Ms. Clement stated that there were some typos that were corrected.

Ms. Kinnon stated that the definition from the State is very confusing because it states that a piggery has less than thirty pigs but this site has more than that. Ms. Clement stated that is why she added the word grandfathered to the definition. Ms. Kinnon stated that the Connecticut State regulations require piggeries to be at least 500' setback from a slaughter house. This is grandfathered but is should not be moved any closer. Attorney Gollub stated that they have no plans to move the pig shelters closer. Ms. Clement stated that in this case the pigs are down slope from the slaughter house. Mr. Roux asked what the distance is now from the slaughter house. Attorney Gollub replied about 100'. Mr. Roux stated that pigs will eat anything and they get very excited with the smell of blood. Attorney Gollub added that the pigs are kept in a pen and all the slaughtering will be done inside the building.

Mr. French asked what will be the date of renewal. Ms. Clement stated that when the Site Assignment becomes final, it will be renewed a year from that date.

Ms. Clement added that she agrees that the pigs are held about 100' downslope of the slaughter house.

Mr. Barry stated that globally, Tewksbury Board of Health or Board of Health should be changed to TBOH and defined in the definitions. Mr. Barry stated that item #6 should be deleted as in the Piggery decision.

Attorney Gollub asked in Section "G", item #4, that "prevent" be changed to "minimize". Ms. Kinnon stated that we could add "help prevent". Attorney Gollub was agreeable to that change. Attorney Gollub asked in Section "K" why pigs can only be slaughtered on days with no other animals. That does not make sense from a business stand point especially when they wash all components after each animal. Ms. Clement stated that what she has read, there needs to be proper sanitizing between animals groups such as red meat, poultry and swine. Attorney Gollub stated that they would request that different species may be slaughtered on the same day as long as there is proper sanitization.

Ms. Clement asked if the applicant is requesting to slaughter chickens. Attorney Gollub replied not at this time.

Mr. Barry asked if the slaughter house could be setup in two areas to slaughter two types of animals. Attorney Gollub replied that might be difficult because of the floor drains in the center of the building. Attorney Gollub stated that Mr. Oliveria cleans the area after each and every animal. They pressure wash

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the table, tools and floor. Ms. Clement asked if a sanitizer is used. Attorney Gollub replied that they use soap or detergent but not a chemical. Ms. Clement stated that soap is great but sanitizing is better. Ms. Clement added that if it is the same category of animal soap is fine but between animal categories sanitizer should be used. Mr. French agreed with that. Mr. Roux also agreed and added that soap could be used for hooved animals but if it changes to poultry then a complete sanitization should be done. Mr. Barry agreed with proper sanitization between different animal categories.

Mr. Barry stated that one hauler will take away all the slaughter from the storage tank, so how does this play into the sanitization. Attorney Gollub stated that Baker's Commodities won't take goat or sheep because of mad cow disease so until we contract with another hauler we won't be slaughtering goats or sheep. Ms. Clement stated that if there is an active virus we need to pinpoint the cause. In food service, sanitization is critical and there are three acceptable ways to sanitize but she is not sure the slaughtering is the same so she will be contacting the State. The three ways are iodine, chlorine and hot water. The use of hot water will increase the tank capacity. Attorney Gollub stated that they can capture the Board of Health concerns with sanitation between different animal species if appropriate but asked to keep moving forward and back fill the information into Item K. Mr. French stated that the State's sanitization procedure should be used. Mr. Roux agreed and but he doesn't want to add additional processes to a business standard. Ms. Kinnon agreed as long as Ms. Clement can find the information.

Mr. Barry stated that this is information needed for the slaughter house decision as well. Ms. Clement asked that be sent out by email tomorrow. Mr. Barry stated that the same wording can be used in the slaughter house regulation for sanitization. Ms. Clement stated that we can add it to item #3 in the slaughter house decision. Mr. French stated that the wording from the slaughter house decision could also be added to "K". Ms. Clement stated that the wording from the slaughter house decision can slide from item #2 into Section "K" of the Site Assignment and add further guidance documents from the State. Ms. Kinnon stated that the word "swine" should be added to #2 to the slaughter house decision. Attorney Gollub stated that for information, "Rumintis" includes goats, sheep and cattle.

Mr. Oliveria asked the Board to act right away. He runs a clean business and his customers keep calling.

MOTION - Ms. Kinnon made a motion to amend #2 of the slaughter house decision to state "slaughtering of poultry, game, rumintis and swine shall not be performed without the proper sanitization". The motion was seconded by Mr. Barry and unanimously voted 5-0.

Ms. Clement stated that now item #2 from the slaughter house decision will be slid into K of the Site Assignment

Ms. Kinnon asked if the reference to a sanitization plan should be removed since it is now referenced in the Site Assignment.

Mr. Barry stated that according to Section J, we only receive the cover sheet from NCRS but if there is a need for soil or manure samples he would want a copy of the results sent to the office. Attorney Gollub stated that if NCRS states no action is needed would the Board like a copy of that letter. Mr. Barry replied yes, on official letterhead.

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MOTION - Mr. Barry made a motion to approve the Site Assignment as amended tonight including fixing of typos, deleting #6 under the finding of facts and modifying “K” to reflect sanitization procedures. The motion was seconded by Ms. Kinnon and unanimously voted 5-0.

Ms. Clement stated that in the other two decisions the only change from Town Counsel was the numbering.

105 CMR 410.000 Minimum Standards of Fitness for Human Habitation

Ms. Clement stated this was sent to Town Counsel for review. Attorney Gollub asked that a finding of fact be that Ms. Clement confirmed the trailers were destroyed.

Keeping of Animals

Ms. Clement stated Animal Inspector Thomas went to the site and reviewed the requested number of animals and she was fine with them. To recap, the numbers in this decision are thirty-five (35) cattle, up to fifty (50) swine, two (2) ponies, up to two-hundred (200) chickens, sixty (60) goats, and forty (40) sheep with up to eighty (80) sheep for one week a year for a religious holiday.

New Business

Ratify Director’s Decision: External Grease Tank, Located at Kerri Plaza, 1699 Shawsheen Street, Tewksbury, MA, Owner: Garrett Nominee Trust

Ms. Clement stated that there was a food establishment that closed and a new business wanted to open in the same space. This would require an external grease tank to be installed. She spoke with the property owner and he would like to come up with a plan to add all the restaurants in the plaza into one external grease tank and he requested a six month extension.

Mr. Roux stated that there is no external grease tank there now. Ms. Clement replied that was correct and all food establishments have an internal grease trap.

Mr. Barry asked if this was the only potential place for this. Ms. Clement replied that she was not sure. Mr. Barry asked if the grease tank regulations have been published. Ms. Clement stated that she sent the letter to Town Counsel on June 5, 2014 and then the regulations were advertised on June 18, 2014 and June 23, 2014. The letter to be sent to the food establishments is ready for review, and then DEP will be notified.

MOTION - Ms. Kinnon made a motion to ratify the Director’s decision and allow a six month extension for the installation of the external grease tank at 1699 Shawsheen Street. The motion was seconded by Mr. Roux and unanimously voted 5-0.

Other Business

ICS/NIMS Training

Ms. Clement stated that all Board of Health members have to take the ICS 100 and NIMS 700 courses online.

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Reschedule of August 21st Meeting

Ms. Clement stated that there was a request to reschedule the August 21, 2014 meeting to August 28, 2014. Mr. Roux asked if the meeting could be moved up to 6:00 PM. Ms. Brothers took a poll of the Board and that change was acceptable. The next meeting will be on August 28, 2014 at 6:00 PM.

Announcements

Ms. Clement stated that she will be on vacation from July 23rd to August 7th.

Ms. Clement stated that there was a cookout held at the Senior Center by the Golden Age group and a food borne illness developed. There are twenty-five reported sick. They are investigating the why, where and how. Ms. Brothers asked if it is a problem that food was made from several homes. Ms. Clement stated that this was a non-profit cookout so that is acceptable.

Ms. Clement stated that a car drove through the Jade East and they are making the repairs and will try to re-open soon.

MOTION - Mr. French made a motion to close the meeting and adjourn at 9:45 PM. The motion was seconded by Ms. Kinnon and unanimously voted 5-0.

Approved On: August 28, 2014

List of documents for 7/17/14 Agenda

Documents are located in the Board of Health's Office

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Exhibit #1 June 19, 2014

Public Hearing:

Exhibit #2 Notice of Decision draft for TBOH Regulations and MGL c. 111 § 143
Exhibit #3 Site Assignment – draft DO Livestock
Exhibit #4 Notice of Decision draft for Slaughter House
Exhibit #5 Notice of Decision draft for 105 CMR 410.000
Exhibit #6 Notice of Decision draft for the Keeping of Animals
Exhibit #7 Noise By-Law
Exhibit #8 Email to L. Clement from Charles Zaroulis dated July 11, 2014
Exhibit #9 Letter from Garret Nominee Trust for 1699 Shawsheen Grease Tank
Exhibit #10 Package from Peter Gollub, ESQ.